

MONTANA LEGISLATIVE HISTORY

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Chapter 102 19 91

Bill H 102 S _____ Original bill & history C

H. Committee on Human Services & Aging

S. Committee on Judiciary

Hearing Date(s) Jan 11 ☒ C

Hearing Date(s) Mar 06 ☒ C

Jan 16 ☒ C

_____ C

_____ C

Date Out Jan 16 ☒ C

Mar 06 ☒ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

HOUSE FINAL STATUS

HB 103

	RETURNED TO HOUSE WITH AMENDMENTS		
3/11	2ND READING AMENDMENTS CONCURRED	81	18
3/12	3RD READING AMENDMENTS CONCURRED	91	7
3/16	SIGNED BY SPEAKER		
3/16	SIGNED BY PRESIDENT		
3/18	TRANSMITTED TO GOVERNOR		
3/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 101		
	EFFECTIVE DATE: 10/01/91		

HB 102 INTRODUCED BY RUSSELL

ALLOW MANDATORY DUI TREATMENT BY CERTIFIED CHEMICAL
DEPENDENCY COUNSELORSBY REQUEST OF ADULT AND JUVENILE DETENTION,
JOINT INTERIM SUBCOMMITTEE ON

1/05	INTRODUCED		
1/05	REFERRED TO HUMAN SERVICES & AGING		
1/07	FIRST READING		
1/11	HEARING		
1/17	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/25	2ND READING PASSED	93	3
1/28	3RD READING PASSED	88	8
	TRANSMITTED TO SENATE		
1/29	FIRST READING		
1/29	REFERRED TO JUDICIARY		
3/06	HEARING		
3/06	COMMITTEE REPORT—BILL CONCURRED		
3/08	2ND READING CONCURRED	49	0
3/09	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
3/16	SIGNED BY SPEAKER		
3/16	SIGNED BY PRESIDENT		
3/18	TRANSMITTED TO GOVERNOR		
3/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 102		
	EFFECTIVE DATE: 10/01/91		

HB 103 INTRODUCED BY RUSSELL

PROHIBIT PRETRIAL DETENTION OF MENTALLY ILL PERSONS IN JAIL

BY REQUEST OF ADULT AND JUVENILE DETENTION,
JOINT INTERIM SUBCOMMITTEE ON

1/05	INTRODUCED		
1/05	REFERRED TO HUMAN SERVICES & AGING		
1/05	FISCAL NOTE REQUESTED		
1/07	FIRST READING		
1/10	FISCAL NOTE RECEIVED		
1/11	HEARING		
1/12	FISCAL NOTE PRINTED		
1/17	REVISED FISCAL NOTE REQUESTED		
1/17	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/21	REVISED FISCAL NOTE RECEIVED		
1/22	REVISED FISCAL NOTE PRINTED		
1/25	2ND READING PASSED	75	23
1/25	TAKEN FROM ENGROSSING AND REREFERRED TO APPROPRIATIONS		
3/11	HEARING		
3/23	TABLED IN COMMITTEE		
3/28	TAKEN FROM TABLE IN COMMITTEE AND PLACED ON 2ND READING		
3/28	2ND READING PASSED	56	41
3/28	ON MOTION RULES SUSPENDED TO PLACE ON 3RD READING		
3/28	3RD READING PASSED	56	40

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By Rep. Tim Whalen, Vice-Chair, on January 11, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Angela Russell, Chair (D)
Tim Whalen, Vice-Chair (D)
Arlene Becker (D)
William Boharski (R)
Jan Brown (D)
Brent Cromley (D)
Tim Dowell (D)
Patrick Galvin (D)
Stella Jean Hansen (D)
Royal Johnson (R)
Betty Lou Kasten (R)
Thomas Lee (R)
Charlotte Messmore (R)
Jim Rice (R)
Sheila Rice (D)
Wilbur Spring (R)
Jessica Stickney (D)
Bill Strizich (D)
Rolph Tunby (R)

Members Excused: Rep. Carolyn Squires

Staff Present: David Niss, Legislative Council
Jeanne Krumm, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: REP. RUSSELL stated that HB 102 and HB 103 are two of twenty-three bills to be heard by the Human Services Committee and other committees during this Legislature. These bills are at the request of the Joint Interim Subcommittee on Adult and Juvenile Detention. The Subcommittee met on several time in a number of communities.

HEARING ON 102

Presentation and Opening Statement by Sponsor:

REP. ANGELA RUSSELL, House District 99, Lodge Grass, stated that the Subcommittee is looking for alternative options to incarceration for the mentally ill, such as availability of

treatment. The Subcommittee survey indicated that 26% of the jail population on a particular day were incarcerated for a Driving Under the Influence (DUI). HB 102 amends the current DUI law to allow a repeat DUI offender to receive mandatory alcohol treatment from any certified chemical dependency counselor (CDC) of his choice. Under current law, repeat offenders must receive alcohol treatment approved by the Department of Institutions. There are 34 approved treatment centers in the state. Their programs are the only ones that a DUI offender may attend under current law to satisfy the requirements of mandatory treatments. The current law is a result of changes made by the 1989 Montana Legislature with enactment of HB 425. HB 102 would eliminate the monopoly created by HB 425 and make more treatment options available plus reducing the cost of mandatory treatment by allowing a CDC to provide alcohol treatment. This bill would restore the right of potential clients to attend treatment programs of their choice. She submitted a summary. EXHIBIT 1

Proponents' Testimony:

Darryl Bruno, Division Administrator, Drug and Alcohol Abuse Division (DAAD), stated support of HB 102 as it is written. Repeat DUI offenders were allowed only to attend state approved programs for treatment. The availability of individuals to go to the programs which they previously attended is taken away.

Opponents' Testimony: None

Informational Testimony:

Mary McCue, Montana Mental Health Counselors Association, stated that the MMHCA is composed of counselors who are in private practice as opposed to school counselors or people who work in mental health centers.

Questions From Committee Members:

REP. BOHARSKI asked for the qualifications of CDC. Mr. Bruno stated that a CDC is certified by the Department of Institutions based on education and experience. To be certified a person must pass written and oral examinations and submit a taped work sample.

REP. LEE asked Mr. Bruno if there is consistency in all of the different treatment programs for the counselors to be certified. He stated that all state approved programs which includes most programs in the state, have to meet standards established by the Department of Institutions.

REP. HANSEN asked REP. RUSSELL if the Subcommittee study determined the number of programs available in the state as opposed to the numbers of applicants. REP. RUSSELL stated there are 34 approved state programs.

REP. BECKER stated that there are other people who can provide this program that may not be under the title of CD. Does this preclude treatment by them. REP. RUSSELL stated that the intent is to allow the CDC extension for them. David Niss stated that a licensed professional counselor would be precluded from the program under the language in the bill.

Closing by Sponsor:

REP. RUSSELL reiterated that 26% of the jail population on a particular day were there because of DUI offenses. This bill allows options to individuals to receive treatment and be outside a jail situation.

HEARING ON HB 103

Presentation and Opening Statement by Sponsor:

REP. ANGELA RUSSELL, House District 99, Lodge Grass, stated that HB 103 is consistent with state policy which requires that mentally ill persons be detained in the least restrictive environment. Jail is not an appropriate place for people with a mental illness. People who are mentally ill often commit minor offenses which are related to their illness. These people need health care and the seriousness of their offense does not warrant incarceration. Jail is for holding persons with a criminal charge pending a civil charge until appropriate. She submitted a summary. EXHIBIT 2

Proponents' Testimony:

Dan Anderson, Administrator, Mental Health Division, Department of Administration, said that the mentally ill persons that are being detained and awaiting an involuntary commitment hearing are people who have an illness waiting for possible transfer to a more specialized treatment facility, namely the state hospital. An analogy would be a person with a severe burn. We would be outraged if a person with a burn awaiting transfer to a specialized burn facility would not be hospitalized. People with mental illnesses need to be housed while awaiting for appropriate treatment.

Marty Onishuk, Montana Alliance for the Mentally Ill favored HB 103 and provided written testimony. EXHIBIT 3

Tom Posy, President, National Alliance for the Mentally Ill, stated that in most states, Legislatures have responded to the unfairness and cruelty of human spirit. There is no question that targeted case management services will create an additional monetary outlay in the beginning, but in the end it is going to be reputed. In a recent survey of states responding to the needs of the seriously mentally ill, Montana had the distinction of being 46th. It is his firm belief that if HB 103 is passed, Montana could rank could in the top 20.

BILL SUMMARY
HB 102

Prepared by Tom Gomez
Montana Legislative Council

This bill was requested by the Joint Interim Subcommittee on Adult and Juvenile Detention, which was formed by the 1989 Legislature to conduct an interim study of adult and juvenile detention in Montana, as requested by SJR 23.

The bill amends the current DUI laws to allow a repeat DUI offender to receive mandatory alcohol treatment from any certified chemical dependency counselor of his choice.

Under current law, repeat DUI offenders must receive alcohol treatment from a treatment program approved by the department of institutions. Approved programs include inpatient and outpatient treatment programs, as well as other programs providing various levels of treatment services. Currently, there are 34 approved treatment programs in the state. These programs are the only ones that a DUI offender may attend, under current law, to satisfy the requirements of mandatory alcohol treatment.

The current law is the result of changes to the DUI statutes made by the 1989 Montana Legislature with enactment of HB 425. The 1989 law has created a "monopoly" for state approved programs in regard to alcohol treatment services for repeat DUI offenders. In so doing, the law excludes treatment from "nonapproved" programs on Indian reservations, at the veterans hospital, or other treatment programs, although the services are provided by certified chemical dependency counselors.

This bill would eliminate the current "monopoly" created by HB 425, making more treatment options available to DUI offenders and reducing the cost of mandatory treatment by allowing certified chemical dependency counselors to provide alcohol treatment to DUI offenders. The bill would also restore to potential clients the right to attend a treatment program of their choice, thereby encouraging treatment.

The bill is the result of an inquiry by the Subcommittee into the availability of treatment as an alternative to incarceration for DUI offenders. This inquiry into the availability of treatment for DUI offenders led to the discovery that state law was changed in 1989 to create a "monopoly" for state-approved alcohol treatment programs.

VISITORS' REGISTER

Human Services : Aging

COMMITTEE

BILL NO. HB 102

DATE 1-11-91

SPONSOR Rep. Russell

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By Angela Russell, Chair, on January 16, 1991, at
3:00 p.m.

ROLL CALL

Members Present:

Angela Russell, Chair (D)
Tim Whalen, Vice-Chair (D)
Arlene Becker (D)
William Boharski (R)
Jan Brown (D)
Brent Cromley (D)
Tim Dowell (D)
Patrick Galvin (D)
Stella Jean Hansen (D)
Royal Johnson (R)
Betty Lou Kasten (R)
Charlotte Messmore (R)
Jim Rice (R)
Sheila Rice (D)
Wilbur Spring (R)
Carolyn Squires (D)
Jessica Stickney (D)
Bill Strizich (D)
Rolph Tunby (R)

Members Excused: Rep. Thomas Lee

Staff Present: David Niss, Legislative Council
Jeanne Krumm, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

EXECUTIVE ACTION ON HB 102

Motion: REP. WHALEN MOVED HB 102 DO PASS.

Discussion:

David Niss stated that questions on HB 102 that arose on the hearing of the bill pertained to lines 2 through 5 on page 3. The bill didn't have to be amended in a similar fashion to lines 13 through 15 of the same page. That language, like the language amended on lines 12, 13, 14 and 15 involves two ideas or two programs. First, there is an alcohol information course and

second, a treatment program. The intent of this legislation (as expressed in the bill summary) prepared by Tom Gomez, was to split the two so that they could be considered separately. That is still the intent. The language on the bottom of page 2 and the top of page 3 requires that the information course must be taken at the place of an approved treatment program, but that language does not require the person to take the approved treatment program. He can take the treatment program any place where there is a certified chemical dependency counselor (CDC), and provided on lines 14 and 15. The intent of the bill is reasonably clear.

REP. CROMLEY asked if there would be additional treatment programs. David Niss stated he did not think so.

Darryl Bruno, Administrator, Chemical Dependency Bureau, stated the intent is to allow CDCs who are not working in approved programs to be able to provide the treatment only. It would allow nonapproved treatment programs; for example, reservation programs provided there is a CDC. It is not the intent of the Department to approve additional programs, certified counselors would provide counseling for repeat offenders. He submitted written information. EXHIBIT 1

David Niss stated the language on page 3, line 14 might be causing confusion; referring to use of the word "program" in the initial position on that line. It is not the intent of this legislation to do anything other than to authorize treatment at a program which uses a CDC. For that purpose, the word "program" on line 13 is superfluous because that is the treatment as opposed to any program that has to do with a CDC. If it would make it clearer, the word "program" could be eliminated.

Motion/Vote: REP. JOHNSON moved to amend HB 102. Motion carried unanimously.

Motion/Vote: REP. STICKNEY MADE A SUBSTITUTE MOTION THAT HB 102 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 103

Motion: REP. STICKNEY MOVED HB 103 DO PASS.

Discussion:

REP. S. RICE provided amendments. EXHIBIT 2

REP. WHALEN stated peace officers are concerned about mentally ill people in rural areas. They don't have any place to put the mentally ill. In the last session it was decided to hold mentally ill people in the least restrictive environment; then contact the closest mental health facility so that person can be transported as soon as there is room.

HOUSE STANDING COMMITTEE REPORT

January 16, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that House Bill 102 (first reading copy -- white) do pass as amended.

Signed: _____
Angela Russell, Chairman

And, that such amendments read:

1. Page 3, line 14.
Strike: "program"

Senator Halligan advised Senator Towe that when the Interim Subcommittee went to Yellowstone County, they discovered that DUI offenders were being put in halfway houses in violation of the law. He said the Interim Subcommittee is trying to give the courts the discretion.

Closing by Sponsor:

Representative Russell told the Committee that Chris Christians, Pre-Release Center, Great Falls, was a proponent when the bill was heard in the House Judiciary Committee, and was responsible for language inserted on page 5.

HEARING ON HOUSE BILL 102

Presentation and Opening Statement by Sponsor:

Representative Angela Russell, District 99, said HB 102 was requested by the Joint Interim Subcommittee on Adult and Juvenile Detention, and allows a choice of treatment programs for repeat offenders. She stated that, under current law, repeat offenders must receive treatment through Department of Institutions approved programs, and not Veterans Administration or Indian Health programs. Representative Russell commented that HB 425 in 1989 created a monopoly for state-approved programs.

Proponents' Testimony:

Darryl Bruno, Administrator, Drug and Alcohol Abuse Division, provided written testimony in support of HB 102 (Exhibit #6). He said there are currently 34 state-approved treatment programs and that 24 of those can also conduct DUI schools.

Mr. Bruno said the Division has established standards for chemical dependency education programs, and that he supports the bill as it is written. Mr. Bruno commented that there are also qualified chemical dependency counselors in private practice, and with the VA, Indian Health, and Ridgeview in Butte.

Patricia Bradley, Montana Magistrates Association, stated her support of the bill.

Opponents' Testimony:

There were no opponents of the bill.

Questions From Committee Members:

There were no questions on the bill.

Closing by Sponsor:

Representative Russell said she believes HB 102 is a good bill, and asked the Committee to give it a do pass recommendation.

EXECUTIVE ACTION ON HOUSE BILL 102Motion:Discussion:Amendments, Discussion, and Votes:Recommendation and Vote:

Senator Mazurek made a motion that HB 102 BE CONCURRED IN. The motion carried unanimously. Senator Halligan was asked to carry the bill.

HEARING ON HOUSE BILL 221Presentation and Opening Statement by Sponsor:

Representative Howard Toole, District 60, said HB 221 raises from \$10 to \$25 the amount of worked-time for traffic offenses. He told the Committee he believes it is a good concept.

Proponents' Testimony:

Peter Funk, Office of the Attorney General, told the Committee that HB 292 changed Title 46 of the criminal procedure code to reduce fines at the rate of \$25 per day, and that HB 221 is an effort to remain consistent with that legislation. He said the fiscal note shows that the Highway Patrol paid higher incarceration costs during the last biennium, and the HB 221 should alleviate this.

Opponents' Testimony:

Patricia Bradley, Montana Magistrates Association, stated her support of HB 221.

Questions From Committee Members:

There were no opponents of the bill.

Closing by Sponsor:

Representative Toole made no closing comments.

ROLL CALL

SENATE JUDICIARY

COMMITTEE

~~52nd~~ LEGISLATIVE SESSION -- 1991

Date 6 Mar 91

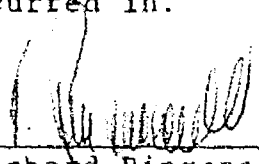
NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsoneault	✓		
Sen. Yellowtail	✓		
Sen. Brown	✓		
Sen. Crippen	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Halligan	✓		
Sen. Harp	✓		
Sen. Mazurek	✓		
Sen. Rye	✓		
Sen. Svrcek	✓		
Sen. Towe	✓		

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 6, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 102 (third reading copy -- blue), respectfully report that House Bill No. 102 be concurred in.

Signed: 

Richard Pinsoneault, Chairman

LB 3/6/91
Amd. Coord.

SB 3/6 1:20
Sec. of Senate

DEPARTMENT OF INSTITUTIONS

Exhibit #6
HB 102
3-6-91



STAN STEPHENS, GOVERNOR

1539 11TH AVENUE

STATE OF MONTANA

(406) 444-3930

HELENA, MONTANA 59620-1301

TESTIMONY HB 102

THE ALCOHOL AND DRUG ABUSE DIVISION (ADAD) IN THE DEPARTMENT OF INSTITUTIONS IS THE RECOGNIZED STATE AUTHORITY FOR ALCOHOL AND DRUG ABUSE TREATMENT REHABILITATION AND PREVENTION SERVICES. ADAD IS THE AGENCY RESPONSIBLE FOR APPROVING TREATMENT PROGRAMS AND THE ALCOHOL INFORMATIONAL SCHOOLS WITHIN STATE APPROVED PROGRAMS. CURRENTLY THERE ARE 34 STATE APPROVED TREATMENT PROGRAM PROVIDERS OF WHICH 24 ARE ALSO APPROVED TO PROVIDE DUI EDUCATIONAL (COURT SCHOOLS). DUI SCHOOLS AND OUTPATIENT TREATMENT SERVICES ARE AVAILABLE IN ALL COUNTIES IN THE STATE. OTHER DUTIES AND RESPONSIBILITIES OF THE ALCOHOL AND DRUG ABUSE DIVISION THAT PERTAIN TO THIS BILL INCLUDE THE CERTIFICATION OF CHEMICAL DEPENDENCY COUNSELORS AND INSTRUCTORS PROVIDING CHEMICAL DEPENDENCY EDUCATIONAL COURSES, ESTABLISHING STANDARDS FOR CHEMICAL DEPENDENCY EDUCATIONAL COURSES PROVIDED BY STATE APPROVED PROGRAMS AND EVALUATING THESE TREATMENT PROGRAMS WHICH PROVIDE THESE EDUCATIONAL COURSES.

IN THE LAST SESSION LEGISLATION WAS PASSED WHICH REQUIRED ALL REPEAT DUI OFFENDERS TO COMPLETE AN ALCOHOL INFORMATION COURSE WHICH MUST INCLUDE TREATMENT. THE PERSON HAD A CHOICE TO WHAT TREATMENT PROGRAM OR COURT SCHOOL THAT HE OR SHE COULD ATTEND AS LONG AS IT WAS STATE APPROVED. IT WAS OUR OPINION THAT THIS LAW WAS VERY RESTRICTIVE AND DENIED DUI DEFENDANTS THE OPPORTUNITY FOR TREATMENT BY SOME EXCELLENT THERAPISTS WHO DID NOT WORK IN STATE APPROVED PROGRAMS.

ALTHOUGH THIS BILL WAS NOT INTRODUCED AT THE REQUEST OF THE DEPARTMENT OF INSTITUTIONS ALCOHOL AND DRUG ABUSE DIVISION WE ARE IN SUPPORT AS IT IS WRITTEN. UNDER CURRENT LEGISLATION STATE APPROVED CHEMICAL DEPENDENCY PROGRAMS ONLY CAN PROVIDE TREATMENT FOR REPEAT DUI OFFENDERS. THIS RESTRICTION PROHIBITS CERTIFIED CHEMICAL DEPENDENCY COUNSELORS IN PRIVATE PRACTICE, NATIVE AMERICAN PROGRAMS WHO HAVE CERTIFIED COUNSELORS AND OTHER NON APPROVED PROGRAMS SUCH AS THE V A PROGRAM AT FORT HARRISON AND THE RIDGEVIEW TREATMENT CENTER IN BUTTE FROM PROVIDING TREATMENT SERVICES TO THIS CRITICAL POPULATION. WHEN INPATIENT TREATMENT IS RECOMMENDED THE ONLY CHOICE CURRENTLY FOR THE INDIGENT POPULATION IS GALEN OR THE LIMITED STATE BEDS THAT THE DEPARTMENT CONTRACTS FOR WITH PRIVATE PROGRAMS. THESE OPTIONS HAVE A WAITING LIST OF FROM 6 TO 8 WEEKS.

THIS BILL WILL ALLOW THE REPEAT DUI OFFENDER A CHOICE..MOST OFTEN THIS CHOICE WILL BE WITH A CERTIFIED COUNSELOR WHO IS PROVIDING COUNSELING SERVICES TO TREATMENT POPULATIONS OTHER THAN THE REPEAT DUI OFFENDER. THIS WILL ALLOW LOW INCOME INDIVIDUALS WHO NEED INPATIENT CARE TO BE REFERRED TO THE VA AT FORT HARRISON AND THUNDERCHILD IN WYOMING OR OTHER INPATIENT PROGRAM THAT HAVE CHEMICAL DEPENDENCY COUNSELORS CERTIFIED BY THE DEPARTMENT. MANY RESERVATION PROGRAMS AND SOME URBAN NATIVE AMERICAN PROGRAMS ARE NOT STATE APPROVED HOWEVER THESE PROGRAMS DO HAVE STATE CERTIFIED COUNSELORS EMPLOYED . THIS BILL WOULD ALLOW THESE PROGRAMS TO TREAT INDIVIDUALS IF OUTPATIENT WAS RECOMMENDED BY THE COURT SCHOOL.

BY PASSING THIS BILL LOW COST TREATMENT WILL BE MORE ACCESSIBLE FOR THE REPEAT DUI OFFENDER.

SUBMITTED BY DARRYL BRUNO ADMINISTRATOR ALCOHOL AND DRUG ABUSE DIVISION